

SERVICE DATE - SEPTEMBER 3, 2015

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 34075

SIX COUNTY ASSOCIATION OF GOVERNMENTS—CONSTRUCTION AND
OPERATION EXEMPTION—A RAIL LINE BETWEEN LEVAN AND SALINA, UTAH

Digest:¹ This decision grants final approval for an exemption sought by Six County Association of Governments to construct and operate a new line of railroad between Salina, Utah, and a connection with an existing line of the Union Pacific Railroad Company near Juab, Utah, subject to certain environmental mitigation conditions.

Decided: August 31, 2015

In a decision served on October 26, 2001,² the Board conditionally found, subject to later consideration of the environmental impacts, that Six County Association of Governments (Six County) met the standards of 49 U.S.C. § 10502 for exemption from the prior approval requirements of 49 U.S.C. § 10901 to construct and operate an approximately 43-mile rail line from Salina, Utah, to a connection to an existing line of the Union Pacific Railroad Company (UP) near Juab, Utah. The purpose of the project is to provide rail access to local industries, particularly the Southern Utah Fuel Company (SUFCO) coal mine located about 30 miles northeast of Salina. Currently, the UP line near Juab provides the only access to freight rail service in this part of central Utah. Therefore, local industries rely exclusively on trucks for transportation, including the transportation of coal from the SUFCO mine. The new line is expected to remove up to 750 trucks per day (one way) from local roads.³

The October 2001 Decision was a preliminary decision addressing only the transportation-related issues under 49 U.S.C. § 10502. The Board explained that, upon completion of the environmental review process required by the National Environmental Policy

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

² See Six Cnty. Ass'n of Gov'ts—Constr. & Operation Exemption—Rail Line Between Levan & Salina, Utah (October 2001 Decision), FD 34075 (STB served Oct. 26, 2001). Notice of the decision was published in the Federal Register on October 26, 2001 (66 Fed. Reg. 54,327).

³ See Final Environmental Impact Statement (EIS) at Summary of Major Conclusions, page ii and Chapter 1, page 1-6.

Act, 42 U.S.C. §§ 4321 et. seq. (NEPA), the Board would issue a final decision addressing the environmental impacts and, if the Board continued to find approval of the line to be appropriate, make the exemption effective at that time.⁴

The Board's Office of Environmental Analysis (OEA),⁵ in cooperation with the United States Department of Interior, Bureau of Land Management (BLM) and the United States Army Corps of Engineers (USACE),⁶ has now completed a thorough environmental analysis that reviewed the potential beneficial and adverse environmental impacts that could result from the proposed project. OEA reviewed a number of build alternatives and a No-Action (or No-Build) Alternative to take a "hard look" at potential environmental impacts as required by NEPA, and to identify the Environmentally Preferable Alternative. The environmental review process has included ample opportunity for public participation, and input from agencies and other interested parties. Based on this analysis, OEA has identified Alternative B3/B2 as its Environmentally Preferable Alternative for the proposed new rail line because it would have the least impacts to water resources (including wetlands) and associated biological resources, as well as fewer impacts to cultural and historic resources.⁷ OEA also has recommended environmental conditions (including both voluntary mitigation proposed by Six County and mitigation developed by OEA) to avoid, minimize, or mitigate the transaction's potential environmental impacts.

In this decision, we are granting final approval for a construction and operation exemption for Alternative B3/B2, subject to OEA's final recommended environmental mitigation measures, with minor changes. Our environmental mitigation is set forth in Appendix 1.

⁴ Subsequent to the October 2001 Decision, the Board changed its policy so that, absent unique or compelling circumstances, it will no longer address the transportation-related issues in construction proposals until the entire record, including the environmental record, is completed. See Alaska R.R.—Constr. & Operation Exemption—Rail Line Between Eielson Air Force Base (North Pole) and Fort Greely (Delta Junction), Alaska, FD 34658 (STB served Oct. 4, 2007). As the Board explained in that decision, the benefits to a construction applicant of conditional exemption authority are subject to question, given that the Board must decide environmental effects of the construction proposal before any final approval can be given and construction may begin, and one possible outcome of the environmental review is the denial of the construction proposal notwithstanding the prior conditional grant. *Id.*, slip op. at 2. The conditional grant here was issued before that policy change. Moreover, as explained in more detail below, on this record, we conclude that it is appropriate to permit this beneficial transaction to go forward.

⁵ OEA was known as the Section of Environmental Analysis when the Draft EIS was issued. For convenience, this decision refers only to OEA.

⁶ USACE was not a cooperating agency during the preparation of the Draft EIS.

⁷ See map at Appendix 2 of this decision.

BACKGROUND

Nature of the Proposal. As explained in the October 2001 Decision and in the Board's EIS,⁸ Six County filed a petition for exemption under 49 U.S.C. § 10502 for exemption from the provisions of 49 U.S.C. § 10901 to construct and operate approximately 43 miles of new rail line between Salina and a connection with an existing UP line near Juab. Six County is a volunteer association of local governments of Sevier, Juab, Sanpete, Millard, Piute, and Wayne Counties in Utah. Its general purpose is to act as an "umbrella-type" organization to plan and develop programs with respect to various economic activities including, but not limited to, owning, acquiring, constructing, operating, and financing transportation facilities.

Six County seeks authority to construct the rail line in an area of central Utah where no rail service currently exists. Six County explains that its counties are home to various industries, including livestock raising, coal and rock salt mining, turkey processing, dairy production, and tourism. Six County also states that Salina County is home to the SUFCO coal mine owned by Bowie Resources, which is especially important to the local economy as it employs a large workforce. Due to lack of rail service, SUFCO currently transports its mined coal by truck about 83 miles along various routes and highways from Salina to UP's rail terminal near Juab. These trucks each carry about 43 tons of coal and travel through downtown Salina at a rate of about one truck per minute, which, according to Six County, causes severe congestion and significant wear and tear on the roads. Six County asserts that the rail access in this area that would result from the proposed transaction would ease congestion, extend the life of the roads, and reduce air pollution. Additionally, Six County anticipates that the addition of a rail line would attract business and industry to the area, thereby increasing employment.

Six County indicates that, although it seeks authorization to construct and operate the proposed line, it does not plan to own or operate the line for profit. Six County explains that it will work jointly with another entity to do the actual construction and possibly assign responsibility for common carrier operations to another operator. It intends to make the appropriate filings with the Board for these future events.⁹

The EIS Process in this Case. OEA conducted a thorough environmental review of the proposed construction and alternatives under NEPA, related environmental laws, and Section 106 of the National Historic Preservation Act (NHPA). In June 2007, OEA issued for public review and comment a detailed Draft EIS addressing a broad range of environmental issues and three alternatives in detail, including Applicant's proposed alternative (Alternative B), another build alternative, and the No-Action Alternative. During the public review and comment period, the U.S. Environmental Protection Agency (EPA) raised concerns regarding possible impacts on wetlands. EPA suggested that OEA conduct a more detailed assessment of each

⁸ The Draft EIS, Supplemental Draft EIS, and Final EIS are available on the Board's website at www.stb.dot.gov and the project website at www.sixcountyutahrail.com.

⁹ Based on the grant of final authority here, Six County acquires a common carrier obligation to provide service on the proposed line once it is constructed. That obligation cannot be assigned or otherwise transferred without Board approval.

alternative's impact on wetlands and consider an alternative that would either avoid or have fewer impacts on wetlands at the north end of the project. EPA also suggested that the EIS should contain detailed mitigation for wetland loss.

In August 2007, OEA issued a notice announcing that it would prepare a Supplemental Draft EIS to gather and assess additional information on alternatives that might potentially reduce impacts on wetlands. OEA directed Six County to provide additional information on wetlands in the project area and to develop an alternative on the northern end of the project area that would avoid, to the extent possible, wetlands in that area. In response, Six County conducted a wetland investigation along the proposed routes and used this information to propose three modified alternatives to Alternative B, referred to as Alternatives B1, B2, and B3. OEA also worked closely with USACE to discuss potential alternatives and to reevaluate an alternative on the north near Mills, Utah, (Alternative N1) that had been dismissed in the Draft EIS because of construction and operation concerns. The results of this wetland investigation alternatives analysis are included in the Supplemental Draft EIS, which OEA issued for public review and comment on May 2, 2014. The Supplemental Draft EIS also reanalyzes the process used to develop alternatives, updates the progress of the historic review process, and identifies 13 additional mitigation measures to address potential environmental impacts in response to comments on the Draft EIS.¹⁰

The Final EIS, issued on May 22, 2015, responds to comments on both the Draft EIS and Supplemental Draft EIS and sets forth OEA's Environmentally Preferable Alternative and final environmental mitigation measures.¹¹ The Draft EIS, Supplemental Draft EIS, Final EIS, including the alternatives considered by OEA, and the environmental comments are discussed in more detail below.

DISCUSSION AND CONCLUSIONS

The construction and operation of new railroad lines requires prior Board authorization, through either a certificate under 49 U.S.C. § 10901 or, as requested here, an exemption under 49 U.S.C. § 10502 from the prior approval requirements of § 10901. Section 10901(c) is a permissive licensing standard that directs us to grant rail line construction proposals unless we find the proposal "inconsistent with the public convenience and necessity." Thus, Congress has established a presumption that rail construction projects are in the public interest unless shown otherwise. See Alaska R.R.—Constr. & Operation Exemption—Rail Line Extension to Port MacKenzie, Alaska, FD 35095 (STB served Nov. 21, 2011), aff'd sub nom. Alaska Survival v. STB, 705 F.3d 1073 (9th Cir. 2013).

¹⁰ See Table 4-3, "Additional Mitigation Recommended by OEA," in the Supplemental Draft EIS at 4-11 to 4-13.

¹¹ The environmental mitigation measures include all of the Applicant's voluntary mitigation measures as well as mitigation measures recommended by OEA. See Final EIS Chapter 2 and Appendix 1 of this decision.

Under § 10502(a), we must exempt a proposed rail line construction from the prior approval requirements of § 10901 when we find that: (1) those procedures are not necessary to carry out the RTP of 49 U.S.C. § 10101; and (2) either (a) the proposal is of limited scope, or (b) the full application procedures are not necessary to protect shippers from an abuse of market power.

In the October 2001 Decision, the Board found, subject to the subsequent consideration of environmental impacts, that Six County met the standards of 49 U.S.C. § 10502 for an exemption from the prior approval requirements of 49 U.S.C. § 10901 for the construction and operation of the new rail line. The Board concluded that the requested exemption would promote the national rail transportation policy of 49 U.S.C. § 10101 by providing a rail service option to shippers in an area of central Utah where no rail service exists, thereby increasing competition (49 U.S.C. § 10101(1) & (4)). Additionally, the Board concluded that exempting the proposed construction and operation would reduce the need for federal regulation, ensure the development of a sound transportation system with effective competition among carriers, foster sound economic conditions, and reduce regulatory barriers to entry (49 U.S.C. § 10101(2), (4), (5), & (7)). Finally, the Board found that regulation of the proposed construction and operation is not necessary to protect shippers from the abuse of market power. See October 2001 Decision, slip op. at 3.

No party has challenged the Board's 2001 conclusions on the transportation merits of the proposal, and nothing in the environmental record developed since then calls those conclusions into question. We therefore reaffirm those conclusions here and now turn to consideration of the environmental aspects of the proposed project.

Environmental Analysis

We have assessed the route alternatives and OEA's recommended environmental mitigation, and analyzed the environmental impacts associated with this construction proposal, fully considering the entire environmental record, including the Draft EIS, Supplemental Draft EIS, public comments, and Final EIS

1. The Requirements of NEPA

NEPA requires federal agencies to examine the environmental impacts of proposed federal actions and to inform the public concerning those effects. See Balt. Gas & Elec. Co. v. Nat. Res. Def. Council, 462 U.S. 87, 97 (1983). Under NEPA and related environmental laws, we must consider significant potential environmental impacts in deciding whether to authorize a railroad construction as proposed, deny the proposal, or grant it with conditions (including environmental mitigation conditions). The purpose of NEPA is to focus the attention of the government and the public on the likely environmental consequences of a proposed action before it is implemented to minimize or avoid potential adverse environmental impacts. See Marsh v. Or. Nat. Res. Council, 490 U.S. 360, 371 (1989). While NEPA prescribes the process that must be followed, it does not mandate a particular result. See Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 350 (1989). Thus, once the adverse environmental effects have been

adequately identified and evaluated, we may conclude that other values outweigh the environmental costs. Id. at 350-51.

2. The Draft EIS and Supplemental Draft EIS

The Draft EIS considered three alternatives in detail: (1) the No-Action Alternative; (2) the Applicant's Proposed Action as of the Draft EIS (Alternative B); and (3) a second action alternative (Alternative C).¹² The Draft EIS also identified and discussed other alternatives that were considered and eliminated from detailed analysis.

As the Draft EIS explained, the No-Action Alternative provides a basis for comparing the other project alternatives. Under the No-Action Alternative, a new rail line would not be constructed. Trucks would continue to use highways in the project area to transport coal from the SUFCO mine to the existing UP mainline. Trucks would also continue to be used to transport bulk commodities to and from the project area. The two build alternatives would run from the UP mainline to a coal facility to be located about 0.5 miles southwest of Salina. Alternative B would involve constructing about 43 miles of new rail line and is generally north-south between Salina and Juab. Alternative C follows the same alignment as Alternative B from the northern terminus to a point about 4.5 miles north of the Sanpete County–Sevier County border, where it continues south essentially parallel to, but 0.5 mile to 1.0 mile west of, Alternative B, where it rejoins Alternative B about 3 miles west of Salina.

The Draft EIS concluded that the north-south route of Alternative B would provide the most direct rail connection to the UP rail network from a new coal transfer terminal in Salina and meet the project's purpose and need. However, based on the environmental analysis, this direct route would result in substantial impacts on wetlands. Thus, as noted, after issuance of the Draft EIS, the Board directed Six County to assess alternatives to Alternative B that would potentially reduce impacts on wetlands and other aquatic resources were assessed.

The Supplemental Draft EIS evaluated Alternative B and four modified alternative routes (Alternatives B1, B2, B3, and N1) that would reduce impacts on wetlands and other water resources but could still meet the project's purpose and need.¹³ Because all of the alternatives

¹² Alternative C was suggested by citizens who attended the public scoping meetings. It was suggested because it would minimize the visual impacts of the rail line and would disturb fewer parcels of farmland within the project area. However, Alternative C would be constructed on a steep berm (approximately 75 feet higher than the B alternatives), which in turn would require significant earthwork (significant fill would be required to maintain a grade within acceptable engineering standards for freight railroads). The grade limitations would result in greater energy cost during operation. This alternative would also result in an additional grade-separated structure at US 50. Draft EIS at Chapter 4.

¹³ Alternative B1 was eliminated in the Supplemental Draft EIS because Alternative B2, which follows a similar route, impacted fewer wetlands. Additionally, Alternative N1 was eliminated in the Supplemental Draft EIS because of impacts to the least chub species, as well as the safety, construction, and operational concerns identified in the Draft EIS.

considered in the Draft EIS and Supplemental Draft EIS converge at a common point southeast of Yuba Hill, the project area was divided into two parts (a north portion and a south portion) to allow the Board to assess a combination of different corridors. Six County's Proposed Action in the Supplemental Draft EIS (Alternative B/B2) is the combination of Alternative B on the north and Alternative B2 on the south. OEA determined that Alternative B/B2 would fill about 3.1 acres of wetlands, consisting of about 1.6 acres on the southern end and about 1.5 acres on the northern end near the connection with the UP mainline. It would also convert 66 acres of irrigated cropland and 126 acres of non-irrigated and sub-irrigated cropland to rail right-of-way. Of this farmland, 37 acres are prime farmland and 11 acres are farmland of statewide importance. Alternative B/B2 also would adversely affect up to 36 historic properties.

Alternative B3/B2 is a combination of Alternative B3 on the north and Alternative B2 on the south. Alternative B3/B2 would fill 2.1 acres of wetlands, consisting of about 1.6 acres on the southern end and about 0.5 acre on the northern end near the connection with the UP mainline. It would also convert 66 acres of irrigated farmland and 165 acres of non-irrigated and sub-irrigated cropland to rail right-of-way. Of this farmland, 37 acres are prime farmland and 11 acres are farmland of statewide importance. Alternative B3/B2 would potentially adversely affect up to 32 historic properties.¹⁴

3. Final EIS and Environmentally Preferable Alternative

In the Final EIS, OEA concluded that Alternative B3/B2 would be environmentally preferable to Alternative B/B2.¹⁵ OEA explained that of the alternatives considered in detail during the environmental review process, Alternatives B3/B2 and B/B2 would meet the purpose of and need for this project while minimizing potential impacts on water resources (including wetlands) and other natural resources. While most of the potential impacts of Alternatives B/B2 and B3/B2 would be similar,¹⁶ OEA designated Alternative B3/B2 as the Environmentally Preferable Alternative because Alternative B/B2 would cause greater environmental impacts on wetlands and associated biological resources (even though Alternative B3/B2 would be longer and have greater impacts on non-irrigated farmland). Furthermore, based on the inventory of historic properties prepared during the EIS process, potentially more historic sites would be impacted by Alternative B/B2. OEA noted that while the No-Action Alternative would avoid all of the environmental impacts related to rail construction and operation, it would not meet the

¹⁴ Alternative B3 has not yet been intensively surveyed. However, the Programmatic Agreement, prepared in accordance with 36 C.F.R. § 800.14(b)(1) and discussed further below, allows parties to continue addressing impacts to historic properties, particularly segments of right-of-way that have not been intensively surveyed. The Programmatic Agreement creates a process whereby any necessary cultural resources surveys for Alternative B3 can be accomplished, consultation continued to determine the significance of newly identified resources, and mitigation plans developed as construction plans are finalized.

¹⁵ See Final EIS at Chapter 1, page 1-19.

¹⁶ See Supplemental Draft EIS at Executive Summary, pages ES-9 to ES-19 and Appendix D; Final EIS at Chapter 1, pages 1-19 to 1-21.

Applicant's purpose and need, nor would it provide the benefits of new rail service in central Utah to move coal and other bulk commodities by rail.¹⁷

OEA received 40 comments on the Draft EIS and four comments on the Supplemental Draft EIS.¹⁸ OEA responded, in the Final EIS, to the comments. Generally, most of the commenters supported the project, noting the safety benefits of reducing coal truck traffic in the area.¹⁹ Supporters also indicated that a rail line would help maintain regional business competitiveness by providing transportation options for locally produced goods and would have an overall positive impact. Other commenters, including state, local, and federal agencies, noted the importance of mitigating any potential adverse impacts on federal, state and local resources, to the extent practicable. Those opposed to the project primarily raised concerns regarding potential adverse effects on farmlands and safety concerns related to operation of the rail line near farm dwellings.²⁰ OEA's mitigation measures address these concerns about safety and land use.²¹

4. National Historic Preservation Act (NHPA)

In accordance with Section 106 of the NHPA (54 U.S.C. § 306108), OEA surveyed the project area, identified historic properties, and consulted with interested parties regarding the potential effects of the project on these properties. Interested parties included the Utah State Historic Preservation Officer (SHPO), USACE, BLM, State of Utah School and Industrial Trust Lands Administration (SITLA), Utah State Parks and Recreation, the Utah Professional Archaeological Council, local governments and federally recognized American Indian tribes. OEA identified up to 32 potential historic properties, primarily archaeological sites that rail construction could adversely affect. On June 29, 2015, OEA executed a Programmatic Agreement (PA) to address impacts to historic properties and meet the Board's responsibilities under Section 106. Signed by the SHPO, BLM, USACE, SITLA, and other parties, including Utah State Parks and Recreation, the Paiute Indian Tribe of Utah, and the Utah Professional Archaeological Council, the PA includes requirements for continuing consultation, identification, and treatment of historic properties and resolution of adverse effects.²² Because this agreement was executed after the issuance of the Final EIS, the Board is modifying a condition in the Final EIS (OEA mitigation measure 34) to require Six County to comply with the executed PA.

Our Conclusions on the Environmental Issues

¹⁷ See Final EIS at Chapter 1, page 1-19.

¹⁸ The comments and OEA's responses are set out in the Final EIS at Chapter 3, pages 3-1 to 3-43.

¹⁹ See Final EIS at Chapter 3, page 3-3.

²⁰ See Final EIS at Chapter 3, page 3-13.

²¹ See, e.g., Appendix 1 at Voluntary Mitigation Measures, Rail Operations and Safety, 1-5.

²² See Final EIS at Chapter 1, page 1-24.

Upon consideration of the Draft EIS, Supplemental Draft EIS, the environmental comments submitted to the Board, and the Final EIS, we are satisfied that the EIS has taken the requisite “hard look” at the potential environmental impacts associated with this transaction. The EIS adequately identifies and assesses the environmental impacts discovered during the course of the environmental review, carefully considers a reasonable range of alternatives (including a No-Action Alternative), and includes extensive environmental mitigation to avoid or minimize potential environmental impacts. Accordingly, we adopt the EIS and all of OEA’s analysis and conclusions, including those not specifically addressed here. As explained in the Supplemental Draft EIS and Final EIS, we find that OEA’s recommended Environmentally Preferable Alternative (Alternative B3/B2) best satisfies the purpose and need for the proposed line, while minimizing potential impacts to water resources (including wetlands) and associated biological resources, as well as cultural and historic resources.

The Draft Supplemental and Final EIS show that construction of Alternative B3/B2 would result in the loss of 66 acres of irrigated farmland and 165 acres of non-irrigated cropland and would adversely affect up to 32 properties that are eligible or unevaluated for listing in the National Register of Historic Places. However, the imposed mitigation is intended to adequately minimize the potential environmental effects of the transaction to the extent practicable. We are imposing 74 voluntary mitigation measures that Six County developed and 37 additional mitigation measures proposed by OEA. Notably, 17 mitigation measures address potential impacts on wetlands and water resources, and Six County will also be required to comply with the executed PA developed to address potential adverse impacts to historic resources. The mitigation measures also address a broad range of other environmental issue areas, including rail operations and safety, land use, biological resources, noise, and hazardous materials. While the No-Action Alternative would avoid the potential environmental impacts of this project, it would not satisfy Six County’s purpose and need; that is, it would fail to bring rail service to this part of central Utah.

CONCLUSION

We are satisfied that Alternative B3/B2 will meet the transportation goals of the project. Construction and operation along this alternative will provide additional access to efficient rail transportation service to an area of Utah where such rail service currently does not exist. Accordingly, we reaffirm here the conclusions reached in the Board’s October 26, 2001 conditional grant.

After weighing the transportation merits and environmental concerns and considering the entire record, we find that Six County’s petition for exemption under 49 U.S.C. § 10502 from the prior approval requirements of 49 U.S.C. § 10901 should be granted. We are granting final approval of the construction and operation of the Environmentally Preferable Alternative—Alternative B3/B2—subject to compliance with the environmental mitigation measures listed in Appendix 1 of this decision.

It is ordered:

1. Under 49 U.S.C. § 10502, the Board exempts Six County's construction and operation of the above-described rail line from the prior approval requirements of 49 U.S.C. § 10901.
2. The Board adopts the environmental mitigation measures set forth in Appendix 1 to this decision and imposes them as conditions to the exemption granted here.
3. Notice will be published in the Federal Register on September 8, 2015.
4. Petitions for reconsideration must be filed by September 23, 2015.
5. This decision is effective on October 3, 2015.

By the Board, Chairman Elliott, Vice Chairman Begeman, and Commissioner Miller.

Appendix 1

Environmental Mitigation Measures

Voluntary Mitigation Measures

Rail Operations and Safety

1. The Applicant shall consult with appropriate Federal, state, and local transportation agencies to determine the final design and other details of the grade-crossing warning devices and the grade separations on public roads. Implementation of all grade-crossing warning devices on public roadways will be subject to the review and approval of reasonable warning devices by the Utah Department of Transportation (UDOT) and by Juab, Sanpete, and Sevier Counties.

Proposed Highway/Rail Grade-Crossing Mitigation	
Roadway	Type of Crossing Warning Device
U.S. 89/SR 24	Grade-separated crossing (no device)
U.S. 50 west of	Automatic crossing gates
SR 78 west of	Flashing lights
Other rural paved	Signs
Other rural	Signs

2. The Applicant shall consult with private landowners to determine the final details of reasonable warning signs on grade crossings on private roads.
3. The Applicant shall confine all project-related construction traffic to a temporary access road within the right-of-way or established public roads. Where traffic cannot be confined to temporary access roads or established public roads, the Applicant shall make necessary arrangements with landowners to gain access from private roads.
4. The Applicant shall ensure that proposed activities within and along existing roads are consistent with the Manual of Uniform Traffic-Control Devices for installation of signs (regulatory, warning/caution, speed, and so on), delineators, and other roadway appurtenances and in compliance with the terms and conditions of any BLM right-of-way grant and American Association of State Highway and Transportation Officials safety standards.
5. The Applicant shall ensure that temporary access roads are used only during project-related construction. After construction is completed, the Applicant shall remove and restore any temporary access roads constructed outside the rail line right-of-way unless otherwise agreed to with the landowners.

Land Use

General Land Use

6. The Applicant shall ensure that land areas that are directly disturbed by the Applicant's project-related construction are restored to their original condition, as may be reasonably practicable, after project-related construction is completed.
7. The Applicant shall erect temporary construction fencing, where appropriate, before project-related construction begins. The Applicant shall inspect temporary construction fencing regularly and promptly repair any damage.
8. The Applicant shall install permanent fencing, where appropriate. The Applicant shall consult with BLM, the Utah Department of Natural Resources (UDNR), other local agencies, and affected landowners to determine appropriate fencing locations and designs. The Applicant shall inspect all fencing regularly and shall promptly repair any damage.
9. The Applicant shall provide access to Federal public land and ensure that access roads to public lands are not permanently blocked or closed.
10. The Applicant shall ensure that recreational routes crossed by the selected alternative are signed for safety.
11. The Applicant shall require constructors to remove all trash and debris generated as a result of the project from public land and dispose of it at an authorized facility in accordance with all applicable Federal, state, and local regulations.

Grants and Leases

12. The Applicant shall obtain a lease with the Utah School and Institutional Trust Lands Administration for construction of the rail line to cross land owned by the State of Utah. The Applicant shall comply with any conditions required under this lease, in addition to those imposed by the Board, for activities on state land.
13. The Applicant shall obtain a right-of-way grant from BLM granting an easement for the rail line to cross land administered by BLM before any project-related construction activities begin on BLM-administered land. The subject right-of-way grant would be issued subject to regulations under 43 CFR 2800 and mitigating stipulations that either are required by policy, law, or regulation or are needed to ensure mitigation of associated surface disturbance activities. The Applicant shall follow any conditions required under this easement, in addition to those imposed by the Board, for activities on BLM-administered land. A copy of the Plan of Operations shall be provided to BLM for its review and approval prior to beginning any construction activities.

Agriculture

No mitigation measures are proposed for impacts to agricultural resources.

Grazing Allotments

14. The Applicant shall put in place temporary fences during construction to allow

continued grazing, if practicable.

15. Once construction is completed, the Applicant shall replace all permanent fences removed during construction.
16. Once construction is completed, the Applicant shall retain or replace cattle guards, gates, and drainage crossings used as livestock passageways as needed.
17. The Applicant shall evaluate whether existing gates on existing side roads that are used to access grazing allotments need to be upgraded with properly sized cattle guards to accommodate increased present and future traffic. Where deer fencing is installed, cattle access needs will be considered in the fence design.
18. The Applicant shall maintain livestock access to water sources, vehicle and livestock access to the allotments, safety fencing, and signage for grazing allotment entrances and exits to enable livestock operations on BLM grazing allotments to continue.
19. The Applicant shall make reasonable efforts to identify all utilities and valid prior existing rights-of-way (including rangeland allotment developments) located within and adjacent to the rail line right-of-way or that cross the rail line right-of-way.
20. The Applicant shall, before project-related construction begins, notify the owner of each identified utility and coordinate with the owner to avoid or minimize damage to utilities.
21. The Applicant shall consult with utility owners to design the rail line so that the utilities are protected during project-related construction and subsequent maintenance and operation of the rail line.
22. The Applicant shall promote the safety of construction workers and avoid interruption of electricity transmission and shall ensure that the regulations of the Occupational Safety and Health Administration and the Utah Overhead Line Safety Act are followed.
23. The Applicant shall coordinate with PacifiCorp and Rocky Mountain Power before beginning construction activities to ensure that all appropriate regulations are followed, especially when operating large equipment such as cranes near a transmission line right-of-way.

Biological Resources

24. The Applicant shall work with the State of Utah prior to construction if any land needs to be taken at the Yuba Lake Recreation Area and the Redmond Wildlife Management Area (WMA) for construction and operation of the rail line. The Applicant shall negotiate in good faith for the appropriate compensation or exchange acreage to compensate the State for any loss in acreage.
25. The Applicant shall consult and coordinate with BLM and UDNR to ensure that the construction and operation of the selected alternative do not impair the Redmond WMA or reduce UDNR's ability to achieve the habitat goals and objectives stated in the Management Plan for the Redmond WMA (dated December 30, 2008).

26. The Applicant shall work with BLM and UDNR to establish species composition, diversity, structure, and total ground cover appropriate for the desired plant community.
27. The Applicant shall use temporary barricades, fencing, and/or flagging, as needed, to contain project-related impacts to the area within the construction right-of-way. Where possible, staging areas will be located on previously disturbed sites. However, staging areas will not be established in sensitive habitat areas.
28. The Applicant shall install culverts at surface water crossings as needed along the rail line to maintain hydrologic connectivity of surface flows from west of Redmond WMA that are crucial to the maintenance and health of the wetland habitat in the area.
29. The Applicant shall use best management practices (BMPs) that require all contractors to conduct daily inspections of all equipment for any fuel, lube oil, hydraulic, or antifreeze leaks. If leaks are found, the Applicant shall require the contractor to immediately remove the equipment from service and repair or replace it.
30. The Applicant shall revegetate as needed any areas that are stripped of existing vegetation with desirable species (such as perennial species that are native to the region) using certified weed-free seed.
31. The Applicant shall work with the appropriate county and state authorities to implement a noxious-weed-control program during construction and operation of the new rail line. A combination of seeding, mechanical weed control, and chemical weed-control mechanisms will be used. All herbicides will be approved by EPA. The Applicant shall make a reasonable attempt to notify residents of property adjacent to the right-of-way before the herbicides are used.
32. The Applicant shall maintain the right-of-way to reduce the potential for uncontrolled wildfires. This maintenance could include reducing or eliminating vegetation accumulation within the right-of-way or seeding fire-resistant species of drought-tolerant plants that are suitable to the ecosystem.
33. The Applicant shall mitigate potential impacts to raptors and shall implement management practices from the *Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances* (Romin and Muck 2002).
34. The Applicant shall use BMPs including bank stabilization and erosion-control measures to protect fish habitat.
35. The Applicant shall coordinate with BLM and UDNR to identify sensitive species within the proposed rail corridor and to identify measures to minimize impacts to such species during construction and operation of the rail line. These species shall include the long-billed curlew, southern leatherside chub, and other state-listed sensitive species. The crossing structure for the Sevier River will be designed to avoid or minimize impacts to the river channel, stream banks, active floodplain, and riparian vegetation. Guidelines from the statewide conservation agreement for the least chub will be implemented.

36. The Applicant shall consult with BLM and UDNR during preliminary design to determine appropriate measures to minimize wildlife losses during migration periods.
37. The Applicant shall consult with BLM and UDNR during the rail line design to provide reasonable enhancement (such as reseeding, restoration, or other appropriate measures) to parts of the deer winter range to replace habitat lost from the construction of the rail line and to attract the animals to the enhanced range and away from the rail line.

Water Resources and Wetlands

38. The Applicant shall obtain any Federal permits required by Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act from USACE before initiating project-related construction activities in wetlands and water bodies. The Applicant also agrees to obtain necessary state permits and authorizations. The Applicant shall incorporate stipulations of these permits and authorizations into construction contract specifications.
39. The Applicant shall work directly with USACE to develop appropriate mitigation for direct wetland impacts as stipulated in the Section 404 permit.
40. The Applicant shall, per the requirements of 33 CFR 325, avoid and minimize impacts to wetlands to the extent practicable during the preliminary and final design of the selected alternative. After all steps have been taken to avoid and minimize impacts to wetlands, the Applicant agrees to prepare compensatory mitigation for any remaining wetland impacts that cannot be avoided. Compensatory mitigation would be developed through any one or a combination of the following four methods: restoring a previously existing wetland or other aquatic site, enhancing an existing aquatic site's functions, establishing (that is, creating) a new aquatic site, and/or preserving an existing aquatic site.
41. The Applicant shall, as appropriate, develop design measures to reduce the project's footprint at key locations where wetland impacts could be reduced.
42. The Applicant shall use proper design and construction BMPs, including erosion control, to reduce the amount of sediment and pollutants entering surface waters, groundwater, and Waters of the U.S. The Applicant shall require its construction contractor to follow all mitigation measures required in all permits obtained, including the Section 404 permit from USACE and the Section 401 Water Quality Certificate from the Utah Department of Environmental Quality.
43. The Applicant shall, in conjunction with Executive Order 11988, Floodplain Management, not place any dredge, fill, or bridge structures within the ordinary high-water mark of the Sevier Bridge Reservoir or Redmond Lake or within the 100-year floodplain of the Sevier River.

Topography, Geology, and Soils

44. The Applicant shall secure all relevant permits for use of public land before beginning construction activities on public land.

45. The Applicant shall limit ground disturbance to only the areas necessary for project-related construction activities.
46. The Applicant shall, during project-related earth-moving activities, require the contractor to remove topsoil and segregate it from subsoil. The contractor shall also stockpile topsoil to be applied later during reclamation of disturbed areas along the right-of-way. The contractor shall place the topsoil stockpiles in areas that would minimize erosion and shall use appropriate erosion-control measures around all stockpiles to prevent erosion.
47. The Applicant shall, during construction activity, take reasonable steps to ensure that its contractors use fill material appropriate for the project area.
48. The Applicant shall begin reclamation of disturbed areas as soon as practicable after project-related construction ends along a particular stretch of rail line. The goal of reclamation will be the rapid and permanent re-establishment of native ground cover on disturbed areas. If weather or the season prevents vegetation from being quickly re-established, the Applicant shall use measures such as mulching or erosion-control blankets to prevent erosion until vegetative cover is established. The Applicant shall monitor reclaimed areas for 3 years. For those areas where efforts to establish vegetation cover have been unsuccessful after 1 year, the Applicant shall reseed annually for up to 3 years if needed.

Hazardous Materials

49. The Applicant shall develop a spill-prevention plan before initiating any project-related construction activities for handling the release of petroleum products or other hazardous materials during construction activities.
50. The Applicant shall, in the event of a spill, give local officials a list of government agencies and the Applicant's management personnel to be contacted. In the event of a reportable spill, the Applicant shall comply with its spill-prevention plan and applicable Federal, state, and local regulations pertaining to spill containment and appropriate clean-up.
51. The Applicant shall require its construction contractor to implement measures to ensure that workers and the environment are protected if undocumented hazardous materials are encountered. The Applicant shall document all activities associated with hazardous material spill sites and hazardous waste sites and shall notify the appropriate local and state regulatory agencies according to applicable regulations. The measures will ensure the proper handling and disposal of contaminated materials including contaminated soil, groundwater, and stormwater, if such materials are encountered.

Air Quality

52. The Applicant shall reduce fugitive-dust emissions created during project-related construction activities and shall implement appropriate fugitive-dust-suppression controls such as spraying water or other approved measures. The Applicant's construction contractor shall also regularly operate water trucks on haul roads to reduce dust.

53. The Applicant shall work with its contractors to make sure that construction equipment is properly maintained and that mufflers and other required pollution-control devices are in working condition in order to limit construction-related air pollutant emissions.

Noise

54. The Applicant shall comply with Federal Railroad Administration regulations that establish decibel limits for train operations and locomotive noise standards.
55. The Applicant shall work with its construction contractors to minimize, to the extent practicable, construction-related noise disturbances near any residences.
56. The Applicant shall maintain project-related construction and maintenance vehicles in good working order with properly functioning mufflers to control noise.
57. The Applicant shall install rail-lubrication systems at curves where doing so would reduce the noise experienced by residents.

Socioeconomics

58. The Applicant shall, before beginning construction activities related to this project, notify local communities, Counties, and landowners about construction timeframes and disturbances.
59. The Applicant shall ensure that project-related construction vehicles, equipment, and workers will not access work areas through landowners' properties without the permission of the property owners. In the unlikely event of any inadvertent damage, the Applicant shall work with affected landowners to appropriately redress any damage to each landowner's property caused by the Applicant's project-related construction activities.
60. The Applicant shall, at least 1 month before beginning construction activities in the project area, provide project-related construction information regarding the sequence of construction of public grade crossings and the approximate schedule for these activities at each crossing, as well as any additional information as appropriate, to emergency response providers in Levan, Gunnison, Salina, Nephi, Manti, and Sigurd and the Park Manager at Yuba Lake Recreation Area.
61. The Applicant shall, before the start of rail operations, contact the emergency response providers in Levan, Gunnison, Salina, Nephi, Manti, and Sigurd and the Park Manager at Yuba Lake Recreation Area with information on the proposed operations to allow the local communities and Counties to incorporate the information into local response plans.

Historic Properties

62. The Applicant shall inform construction supervisors of the importance of protecting archaeological resources, graves, and other historic properties and how to recognize and treat these resources.
63. The Applicant agrees to comply with the requirements of the Programmatic Agreement with the Utah SHPO once it is executed.

Recreation

64. The Applicant shall install rail crossing signs at the Painted Rocks Campground crossing and at an at-grade crossing for the Paiute all-terrain vehicle (ATV) trail.
65. The Applicant shall design the Yuba Narrows crossing bridge to maximize, to the extent practicable, the ability of boats, water skiers, and other recreationists to pass under the bridge across the Sevier Bridge Reservoir.
66. The Applicant shall coordinate with the Park Manager at Yuba Lake Recreation Area regarding schedule and access issues for boaters during construction. The Applicant shall install warning devices to notify boaters of project-related bridge construction.
67. The Applicant shall ensure that public access roads to the Sevier Bridge Reservoir will remain open and will be signed for safety. If the rail line causes damage to existing facilities at the Painted Rocks Campground, the Applicant shall be responsible for repairing or replacing damaged facilities including but not limited to the Painted Rocks Well, water pipelines, water storage tank, septic systems, toilets, dump stations, roads, and campsites.
68. The Applicant shall provide an at-grade crossing to maintain the continuity of the Paiute ATV trail. Appropriate signs will be installed for safety purposes. The Applicant shall coordinate the design of the crossing with the landowner. The Applicant shall install stop signs and appropriate railroad warning signs in conjunction with the rail crossing.
69. The Applicant shall consult with Utah State Parks on any required improvements to access roads, associated fences, trees, and noise-mitigation structures along the 0.6-mile entrance to Painted Rocks Campground from SR 28.
70. The Applicant shall consult with the Park Manager at Yuba Lake Recreation Area regarding construction activities and shall attempt to schedule project-related construction activities to avoid peak-use periods to the extent practical.

Aesthetics

71. The Applicant shall develop all structural elements such as walls, bridges, and tunnels to harmonize with existing structures and other landscape elements in the project area. For instance, visual impacts to slope lengths will be reduced by leaving native boulders in place or by adding additional boulders to the slope. This practice will provide erosion control and add visual interest to the slope.
72. The Applicant shall use cut techniques such as slope rounding, undulating the face, and constant distance in rolling topography as appropriate.
73. The Applicant shall further soften slope cuts and stabilize them by mulching the stripped vegetation and reapplying the mulch to the slope. Any slope cuts on public land administered by BLM will be restored to the original Visual Resource Management (VRM) objective for that location as specified by appropriate BMPs and in the most recent Resource Management Plan.

74. The Applicant shall, after project construction, landscape cut-and-fill areas with appropriate native vegetation where practicable to make the area appear as natural as reasonably possible. Any slope cuts on public land administered by BLM will be restored to the original VRM objective for that location as specified in the most recent Resource Management Plan.

Mitigation Measures Developed by OEA

Rail Operations and Safety

1. The Applicant shall comply with the safety regulations implemented and enforced by the Federal Railroad Administration.
2. According to the National Pipeline Mapping System, two major pipeline companies have facilities in the general area. The Applicant shall conduct the necessary surveys to determine whether project-related construction would cross any existing pipelines and shall comply with any applicable regulations and the regulations implemented and enforced by the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety.
3. The Applicant shall consult with appropriate Federal, state, and local transportation agencies to determine the final design and other details of project-related grade-crossing warning devices. Implementation of all project-related grade-crossing warning devices on public roads would be subject to the review and approval of UDOT and Juab, Sevier, and Sanpete Counties.
4. The Applicant shall coordinate with UDOT and Juab, Sevier, and Sanpete Counties to minimize delay during grade-crossing construction.

Land Use

5. The Applicant shall comply with all Federal and state regulations that apply to land use, as practicable, in the project area.
6. The Applicant shall work with local farm agencies and landowners, to the extent practicable, to determine when property is no longer farmable due to the location of the proposed track and to determine appropriate remedies for the landowner.
7. The Applicant shall work with farmers to remedy, to the extent practicable, any damage to crops caused by the Applicant's construction and operation activities related to the project. This includes any impacted irrigation appurtenances.
8. Prior to commencing any project-related construction activities, the Applicant shall provide its construction schedule to affected farmers and ranchers to allow them to determine whether they should continue to farm areas or discontinue farming due to impending construction activities related to the project.
9. The Applicant shall work with ranchers to remedy, to the extent practicable, any damage to pastures or rangelands caused by the Applicant's construction or reconstruction activities related to the project.

10. The Applicant shall negotiate with farmers and ranchers regarding the possibility of train-free periods to facilitate movement of equipment or livestock from one side of the rail line to the other.

Biological Resources

11. The Applicant shall notify the Board and the U.S. Fish and Wildlife Service if any federally listed threatened or endangered species are discovered during project-related construction activities.
12. The Applicant shall prepare a Reclamation Plan for re-establishing vegetation in areas disturbed by construction related to this project. The Applicant shall coordinate with UDNR in developing the plan to ensure for appropriate seed mixtures, planting rates and times, and post-planting monitoring methods and schedules to ensure that the criteria for success are met, to the extent practicable.
13. The Applicant shall coordinate with the U.S. Department of the Interior and the Utah Division of Wildlife Resources to identify appropriate seasonal restrictions on project-related construction and operations that will ensure protection of all migratory birds during their breeding, nesting, and roosting seasons. Preconstruction surveys for raptors and migratory birds will be conducted if large, woody vegetation or dense shrubs are scheduled to be cleared during the nesting seasons for either raptors or migratory songbirds. The nesting season for raptors in larger, woody vegetation (such as trees near streams or canal crossings) is February 1 through July 31. The nesting season for smaller, migratory songbirds in any woody vegetation (including trees and shrubs) is May 1 through August 30.

Water Resources and Wetlands

14. During project-related construction and operation, the Applicant shall avoid and minimize impacts to Waters of the U.S., including wetlands, to the extent practicable. If construction is authorized, the Applicant will conduct a wetland delineation in compliance with Section 404 of the Clean Water Act. The Applicant will comply with all reasonable requirements as required by USACE. The total acreage of jurisdictional wetlands identified during this process and the results of the functional assessment will determine the type and amount of mitigation required to offset impacts to Waters of the U.S. in accordance with the requirements of 33 CFR 325 and 332. The Applicant will be required to develop mitigation for impacts to wetlands and other Waters of the U.S., such as ephemeral and perennial drainages.
15. The Applicant shall implement all reasonable BMPs imposed by USACE under Section 404 of the Clean Water Act to minimize project-related impacts to Waters of the U.S., including wetlands. BMPs could include:
 - Containing sediment and turbidity at the work site by installing diversion or containment structures.
 - Disposing of dredge spoils or unusable excavated material not used as backfill at upland disposal sites in a manner that minimizes impacts on wetlands.
 - Revegetating wetlands as soon as possible, preferably in the same growing season,

by systematically removing vegetation, storing it in a manner to retain viability, and replacing it after construction to restore the site.

- Stockpiling topsoil and organic surface material, such as root mats, separately from overburden and returning them to the surface of the restored site.
 - Dispersing the load of heavy equipment such that the bearing strength of the soil (the maximum load the soil can sustain) would not be exceeded. Suitable methods could include, but are not limited to, working in frozen or dry ground conditions, using mats when working in wetlands or mudflats, and using tracked rather than wheeled vehicles.
 - Using techniques such as brush layering, brush mattressing, live siltation (a revegetation technique used to trap sediment), jute matting, and coir logs to stabilize soil and re-establish native vegetation.
16. The Applicant shall design and construct the rail line authorized by the Board in such a way as to maintain natural water flow and drainage patterns to the extent practicable. This shall include installing bridges or placing equalization culverts through the embankment as necessary to prevent the impoundment of water or excessive drainage and maintaining the connectivity of floodplains and wetlands as applicable.
 17. During rail construction, the Applicant shall disturb the smallest area practicable around any streams and, as soon as practicable following project-related construction activities, shall revegetate disturbed areas using native vegetation.
 18. The Applicant shall minimize the number of temporary stream crossings constructed to provide access for contractors, work crews, and heavy equipment to the extent practicable. Where needed, temporary structures shall be placed to avoid overly constricting active channels and shall be removed as soon as practicable after the crossing is no longer needed.
 19. The Applicant shall coordinate with USACE, BLM, and UDNR to ensure that new project-related stream and floodplain crossings are appropriately designed. For crossings within the mapped 100-year floodplain, drainage crossing structures shall be designed to pass a 100-year flood.
 20. The Applicant shall evaluate project-related construction water needs in relation to stream flow rates and groundwater recharge rates, as appropriate, and shall minimize effects on surface water and groundwater. Water withdrawals shall be subject to prior written approval by UDNR for withdrawals from fish-bearing waters.
 21. When project-related activities, such as culvert and bridge construction, require work in stream beds, the Applicant shall conduct activities, to the extent practicable, during either summer or winter low-flow conditions.
 22. The Applicant shall work with BLM to mitigate any potential impacts of project-related construction and operation activities to groundwater wells near the Painted Rocks Campground and any other groundwater wells in the project area.
 23. The Applicant shall be responsible for promptly bringing the wells and water

system back into compliance if construction or operation of the rail line affects wells and/or water systems.

24. The Applicant shall design the selected alternative according to the applicable standards of the floodplain programs administered by Sanpete and Sevier Counties.

Topography, Geology, and Soils

25. The Applicant shall secure all relevant permits for use of public land before beginning project-related construction activities on public land.

Hazardous Materials

26. The Applicant shall maintain the right-of-way in a sanitary condition during all project-related construction, operation, maintenance, and termination activities.
27. The Applicant shall ensure that waste materials related to this project are removed and disposed of promptly at an appropriate waste-disposal site.
28. The Applicant shall ensure that gasoline, diesel fuel, oil, lubricants, and other petroleum products are handled and stored in such a manner as to prevent them from entering into and contaminating soils on public land. If a petroleum spill occurs in the project area as a result of rail construction, operation, maintenance, or termination activities, the Applicant shall be responsible for promptly cleaning up any spills in accordance with Federal and state regulations.

Air Quality

29. The Applicant shall comply with applicable Federal and state air quality regulations.

Noise

30. The Applicant shall work with its contractors to minimize, to the extent practicable, construction-related noise disturbances in residential areas. Construction-related and maintenance vehicles must be in good working order with properly installed mufflers to control noise.

Socioeconomics

31. The Applicant shall work with individual landowners to avoid, where possible, creating small areas of farmland that could no longer be farmed due to project-related rail construction and operation. The Applicant shall work with an appropriate local or state agency and in consultation with the property owner to determine, on a case-by-case basis, whether farmland could remain farmable and whether steps reasonably can be taken to maximize the amount of farmland that will remain farmable.
32. The Applicant shall, before beginning construction activities related to this project, establish a Community Liaison to consult with affected communities, businesses, and agencies; develop cooperative solutions to local concerns; be available for public meetings; and conduct periodic public outreach for 1 year after operations on the new rail line begin.

33. The Applicant shall provide the name and phone number of the Community Liaison to appropriate local officials in communities through which the new rail line passes.

Historic Properties

34. The Applicant shall comply with the provisions of the Programmatic Agreement executed on June 29, 2015.

Recreation

35. The Applicant shall coordinate with the U.S. Forest Service and BLM to ensure that impacts to the Paiute ATV trail are addressed to reduce or avoid impacts to the trail as practicable. The Applicant's voluntary mitigation should further reduce impacts to the trail. OEA has determined that the Applicant's Proposed Action in this Final EIS (Alternative B/B2) and Alternative B3/B2 would have a negligible effect on recreation.

Federal Public Land

36. The Applicant's mitigation measures for impacts to Federal public land shall comply with the most recent Federal land-use policies, regulations, and procedures. In addition to the mitigation recommended by the Board and the voluntary mitigation proposed by the Applicant in Section 2.2, Applicant's Final Voluntary Mitigation Measures, of this chapter, BLM recommends the following mitigation measures for construction, operation, and termination activities on Federal public land:
- The Applicant shall secure all relevant Federal, state, and local permits before beginning construction activities.
 - The Applicant shall stake the centerline and clearly mark the exterior boundary of the right-of-way area before beginning construction activities.
 - The Applicant shall ensure that all activities associated with the construction, operation, maintenance, and termination of the proposed project on Federal land under BLM's jurisdiction are confined within the authorized limits of the described right-of-way area, unless otherwise approved in writing by BLM.
 - The Applicant shall ensure that surveys for specific species, if required, are conducted before beginning construction activities. These surveys will be conducted following BLM-approved protocols and regulations. Also, if appropriate, mitigation measures from recovery plans, conservation plans, or conservation agreements will be implemented in cooperation with BLM and state and Federal wildlife agencies.
 - The Applicant shall be responsible for repairing existing facilities that are damaged during operation, maintenance, or termination of activities on Federal land under the jurisdiction of BLM. These facilities shall be repaired or restored to the same condition as existed before the damage.
 - The Applicant shall obtain the prior written approval of BLM if, at any time after the grant to cross Federal public land, the Applicant wishes to reconstruct, remodel, or relocate any part of the right-of-way or change, modify, or add improvements or

facilities on Federal land under BLM's jurisdiction.

- The Applicant shall ensure full compliance with the terms, conditions, and stipulations of any BLM right-of-way grant. Failure or refusal of the Applicant's agents, contractors, subcontractors, or employees to comply with the terms, conditions, and stipulations shall be the ultimate responsibility of the Applicant.
- The Applicant shall meet with BLM to arrange a joint inspection of the right- of- way when the grant to cross Federal public land is no longer needed and before discontinuing use of the facilities on Federal land under BLM's jurisdiction. The inspection will be held to agree on an acceptable abandonment (discontinuing use of the facilities under BLM jurisdiction) and rehabilitation plan. BLM must approve the plan in writing before the Applicant begins any abandonment (discontinuing use of the facilities under BLM jurisdiction) and/or rehabilitation activities.

Appendix 2

